IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH

JUDGMENT

Man Singh Vs. State of Rajasthan
(D.B. Criminal Jail Appeal No.254/2003)

D. B. Criminal Appeal under Sec.374 (2) Cr.P.C. against the judgment dated 16-1-2003 in Sessions Case No.15/2001 passed by Shri J.P. Sharma, RHJS, Additional Sessions Judge Kotputli District Jaipur.

Date of Judgment: July 13, 2007.

PRESENT

HON'BLE MR. JUSTICE SHIV KUMAR SHARMA
HON'BLE MR. JUSTICE SANGEET LODHA

Ms. Rajesh Kandwal, Amicus Curiae, for the appellant.

Mr. M.L.Goyal, Public Prosecutor for the State.

BY THE COURT: (PER HON'BLE Shiv Kumar Sharma,J.)

Antar Devi (deceased) got married to Man Singh (appellant herein) on the fateful night when she persuaded appellant to allow her to go to her Peehar (parental house) she was axed and killed. On the charge of killing his wife the appellant was put to trial before learned Additional Sessions Judge Kotputli District Jaipur, who vide judgment dated January 16, 2003 convicted and sentenced him under section 302 IPC to suffer imprisonment for life and fine of Rs.1000/-, in default to further suffer simple imprisonment for six months.

2. It is the prosecution case that on May 12, 2001 Bajrang Singh (Pw.7), the brother of deceased Antar Devi submitted a written report (Ex.P-

1) at Police Station Kotputli stating therein that on the preceding day informant and Ganesh Singh (Jeeja) had gone to Sasural of Antar Devi for taking her with them to her Peehar but the appellant negatived her visit. Although the informant got frustrated after having heard `big no' of the appellant, he could not instantly return to his village in the odd hour of night and he along with his Jeeja had to sleep in the house of appellant. Having noticed the scarcity of food and the drinking habit of appellant, the informant got perturbed. In the intervening night informant woke up on hearing shrieks. When the informant and his Jeeja reached to the room of his sister, he saw appellant inflicting axe blows on the person of his sister. He was also threatened by the appellant therefore he awoke the neighbours. On that report a case under section 302 IPC was registered and investigation commenced. Necessary memos were drawn, statements of witnesses were recorded and after completion of investigation charge sheet was filed. In due course the case came up for trial before the learned Additional Sessions Judge Kotputli District Jaipur. Charge under section 302 IPC were framed against the appellant, who denied the charge and claimed trial. The prosecution in support of its case examined as may as 14 witnesses. In the explanation under Sec.313 Cr.P.C., the appellant claimed innocence. No witness in support of his defence was however examined. Learned trial Judge on hearing final submissions convicted and sentenced the appellant as indicated herein above.

3. We have heard learned Amicus Curiae and learned Public Prosecutor and with their assistance scanned the material on record.

4. Death of Antar Kanwar was undeniably homicidal in nature. As per Post Mortem Report (Ex.P-28) following ante mortem injuries were

found on the dead body:-

1. Incised wound Rt. infra orbital region inner cantus to Rt. eye to mid 3y90 mastoid region 6cm x 1cm x Bone deep with fracture of Rt. maxilla
2. Incised wound transangle of Rt. mandible to parotid region with lower end of Rt. ear lobule 6cm x 1cm x Bone deep with fracture of Rt. mastoid bone.
3. Incised wound from back of Rt. ear to occipital region posteriorly bone deep, fracture of Rt. occipital bone.
4. Incised wound from 4PP part of Rt. Pinna extending posteriorly in occipital region 6cm x 1cm x Bone deep
5. Fracture of Rt. Parietal region bone Incised wound brain deep. Brain matter comes out from wound.

In the opinion of Dr. Girvar Singh Meena (Pw.11) the cause of death was neurogenic shock due to head injury.

5. The prosecution case is founded on the testimony of Bajrang Singh (Pw.7) and Ganesh Singh (Pw.9) who were examined as eye witnesses of the incident. To corroborate their testimony Sumer Singh (Pw.4) and Pooran Singh (Pw.6) were produced. Sumer Singh and Pooran Singh were neighbourers and reached to the place of incident immediately after the incident. Axe allegedly used in the commission of offence got recovered at the instance of the appellant. FSL report testifies that the clothes found on the dead body, clothes recovered at the instance of appellant and axe were stained with `A' group human blood.

6. Corroborating the contents of the FIR informant Bajrang Singh (Pw.7) deposed that he had seen the appellant axing Antar Devi. Testimony of Bajrang Singh gets corroboration from the evidence of Ganesh Singh (Pw.9).

7. Learned Amicus Curiae criticised the evidence of these witnesses on the ground that they neither lodged the report of the incident to police nor did they remain present at the place of incident. Instead they straightway went to their house and inform their parents and some unknown person informed the police on telephone about the incident.

8. In order to appreciate the submissions we closely scrutinised the material on record. We find that testimony of Bajrang Singh and Ganesh Singh could not be shattered in the cross examination. There is nothing on record to show that these witnesses had enmity with the appellant. Written report (Ex.P-1) was handed over by Bajrang Singh to the police at the place of incident and his presence along with Ganesh Singh is established at the time of incident. On examining the evidence of Bajrang Singh and Ganesh Singh from the point of view of trustworthiness we find them highly reliable witnesses.

9. Recovery of incriminating articles at the instance of appellant is established beyond reasonable doubt. Gopi Singh IO (Pw.10) deposed that on receiving the report he registered the case and arrested the appellant vide arrest memo Ex.P-13, and on the basis of disclosure statement of appellant (Ex.P-16) blood stained clothes of appellant were recovered vide memo Ex.P-11. On the basis of disclosure statement of appellant (Ex.P-15) blood stained axe was recovered vide memo Ex.P-12. Blood stained clothes found on the dead body of Antar Devi got recovered vide recovery memo Ex.P-14. All these articles were sent to FSL. A look at the report (Ex.P-27) reveals that on all these articles human blood of group `A' was found. Thus from the

ocular and circumstantial evidence charge under section 302 IPC is proved beyond reasonable doubt against the appellant.

10. For the reasons aforementioned, we find no merit in the instant appeal and the same accordingly stands dismissed. Conviction and sentence awarded to appellant under section 302 IPC are maintained.

(Sangeet Lodha),J. (Shiv Kumar Sharma)J.

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